

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAIME GUADALUPE MENDOZA,

Petitioner,

Case No. 1:08-CV-985
(Criminal Case No. 1:06:CR:284-03)

v.

HON. GORDON J. QUIST

UNITED STATES OF AMERICA,

Respondent.

**ORDER DENYING REQUEST FOR CERTIFICATE OF
APPEALABILITY AND APPLICATION TO APPEAL IN FORMA PAUPERIS**

On October 14, 2009, this Court entered an Opinion and a Final Judgment denying Petitioner's Motion Under 28 U.S.C. § 2255 To Vacate, Set Aside, Or Correct Sentence By A Person In Federal Custody. The Court also denied Petitioner a Certificate of Appealability. Petitioner has filed a Notice of Appeal of this Court's decision denying his § 2255 motion. This matter is now before the Court on Petitioner's Motion for Certificate of Appealability and Petitioner's Motion to Appeal In Forma Pauperis.

As noted above, the Court denied Petitioner a Certificate of Appealability, concluding that Petitioner failed to demonstrate a "substantial showing of a denial of a constitutional right" as required by 28 U.S.C. § 2253(c)(2). The Court observed that under *Slack v. McDaniel*, 529 U.S. 473, 120 S. Ct. 1595 (2000), reasonable jurists could not find that this Court's dismissal of each of Petitioner's claims was debatable or wrong. Having reviewed Petitioner's instant request for a Certificate of Appealability, the Court find no reason to depart from its prior conclusion. Thus, the

request will be denied.

Petitioner also seeks leave to proceed in forma pauperis on appeal. Because the Court denies Petitioner's Motion for Certificate of Appealability, Petitioner's Motion for Leave to Appeal In Forma Pauperis will be dismissed as moot.

Therefore,

IT IS HEREBY ORDERED that Petitioner's Motion for Certificate of Appealability (docket no. 14) is **DENIED**, and Petitioner's Motion for Leave to Appeal In Forma Pauperis (docket no. 13) is **DISMISSED AS MOOT**.

Dated: December 2, 2009

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE